SINGLE BENCH

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IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 4159 / 2005

Petitioner : Smt.Mamta Agarwal,
W/o Anil Agarwal,
Aged about 36 Years,
R/o Bazar Para,
Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

Versus

Respondents : 1. Smt.Sangeeta Rai,
W/o Ravindra Rai,
Aged about 31 years,
Dharamjaigarh Colony,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

2. Smt.Aktari
W/o Kurseed Khan,
Aged about 37 years,
R/o Turrapara Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

3. Smt.Sangeeta Baiga
D/o Bandan Baiga,
Aged about 39 years,
R/o Patrapara Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

4. Smt.Heera Bai,
W/o Khasiram,
Aged about 34 years,
R/o Kodwaripara
Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

5. Smt.Anjani Vishwakarma
W/o Narayan Vishwakarma,
Aged about 40 years,
R/o Ram Mandir Ward
Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

6. Smt.Chandana Sahu,
W/o Jaspal Sahu,
Aged about 35 years,
R/o Turrapara Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

P.R. No. 4276/05
Presented by Shri Sunil Sahu
dated 23/8/05

शपथ आयुक्त
बिलासपुर (छ.ग.)
बिलासपुर तहसील छोड़

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7. The Asst.Election Officer,
Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

8. State of Chhattisgarh
Through – Asst.Election Officer,
Dharamjaigarh,
Tehsil – Dharamjaigarh,
Dist : Raigarh-(C.G.)

WRIT PETITION UNDER ARTICLES 226 / 227 OF THE CONSTITUTION OF INDIA

XI-HC-78

(29)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 4159/05 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षरसहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

07.9.2005

Shri Awadh Tripathi, counsel for the petitioner.

Heard.

The petitioner has preferred this petition under Article 226/227 of the Constitution of India being aggrieved by the order dated 27.6.2005 passed by learned District Judge, Raigarh.

The case of the petitioner is that the petitioner contested the election for the post of President, Nagar Panchayat, Dharamjaigarh and she was elected in that election. Respondent No.1 herein questioned the election of petitioner by way of filing an election petition under Section 20 of the C.G. Municipalities Act, 1961. Summons of said petition were served on the petitioner herein, she filed her written statement in which she raised a specific objection that necessary parties have not been added in the petition. Based on that Issue No.5A was framed but that has not been decided as a preliminary issue.

I have heard learned counsel for the petitioner.

Learned counsel for the petitioner submitted that after framing of Issue No.5A learned District Judge was required to decide that issue as a preliminary issue in view of the mandatory provisions contained in Section 20(4)(A) of the Act in which it has been incorporated that "*who shall be the necessary party of the petition*

Having heard learned counsel for the petitioner, I have perused the record also.

XI-HC-78

(31)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

It is true that by way of application dated 27.6.2005 the petitioner herein requested for framing of additional issue regarding not arraying the necessary parties in the petition and it was also prayed that the said issue be decided as preliminary issue. However, learned District Judge framed the Issue No.5A and fix the matter for evidence.

There is nothing on record which shows that the petitioner herein has made any oral request to learned District Judge for deciding the Issue No.5A as preliminary issue, as such there is no order before the Court wherein the request made by the petitioner has been shown to be refused. Accordingly, the petition deserves to be dismissed and it is hereby dismissed.

However, the petitioner will be at liberty to raise this issue before the District Judge and even thereafter, if the District Judge refuse to decide the said issue as preliminary issue then the petitioner will be at liberty to raise his grievance before the appropriate forum.

Sd/-
L.C. Bhadoo
Judge